UNITED STATES DISTRICT COURT

DISTRICT OF MINNESOTA

In re: MEDTRONIC, INC., IMPLANTABLE DEFIBRILLATORS PRODUCTS LIABILITY LITIGATION.	Multidistrict Litigation No. 05-1726 (JMR/AJB)

ORDER FOR THE PRESERVATION OF EVIDENCE

Pursuant to the Court's duty to supervise pretrial proceedings in this case, including discovery, and pursuant to the court's inherent power, the court hereby orders, effective immediately, that Medtronic, Inc., their officers, employees and attorneys (collectively, "Medtronic") and all named plaintiffs and their attorneys (collectively, "the Parties") comply with the following directives relating to the preservation of evidence in the above captioned matter:

Device Preservation

A. Devices Subject to this Section

The provisions of this Order shall pertain to the following Medtronic implantable cardioverter defibrillators and chronic resynchronization therapy devices that may be relevant to this MultiDistrict Litigation:

1. Medtronic Marquis VR, Model 7230 Single Chamber Implantable Cardioverter Defibrillator (ICD),

2. Medtronic Maximo VR, Model 7232 Single Chamber Implantable Cardioverter Defibrillator (ICD);

3. Medtronic Marquis DR, Model 7274 Dual Chamber Implantable Cardioverter Defibrillator (ICD).

4. Medtronic InSync Marquis, Model 7277 Dual Chamber Implantable Cardioverter Defibrillator (ICD) with Cardiac Resynchronization Therapy.

5. Medtronic Maximo DR, Model 7278 Dual Chamber Implantable Cardioverter Defibrillator (ICD).

6. Medtronic InSync III Marquis, Model 7279 Dual Chamber Implantable Cardioverter Defibrillator (ICD) with Cardiac Resynchronization Therapy.

7. Medtronic InSync III Protect, Model 7285 Dual Chamber Implantable Cardioverter Defibrillator (ICD) with Cardiac Resynchronization Therapy.

8. Medtronic InSync II Marquis, Model 7289 Dual Chamber Implantable Cardioverter Defibrillator (ICD) with Cardiac Resynchronization Therapy.

9. MICRO JEWEL II Model 7223Cx (defibrillators).

10. GEM DR Model 7271 (defibrillators).

B. Testing and Analysis Permitted by Medtronic

The Court will specifically allow the following:

1. Non-Destructive Testing and Analysis. Non-destructive testing and analysis by Medtronic of the Devices is allowed. This testing and analysis may include, but is not limited to: (1) reprogramming the device to turn the ventricular fibrillation detection therapy "off," if it is programmed "on"; (2) interrogation of the device utilizing a Medtronic programmer; (3) recording battery voltage; (4) creating a Save-to-Disk file of any data extracted from the device through interrogation; (5) importing the Save-to-Disk file to any associated internal regulatory reporting system; (6) photographing the device; and (7) sterilizing the

device. The information obtained using the programmer and downloaded to the disk will be preserved. The device will be retained.

2. Destructive Testing and Analysis. In addition to the testing allowed in Paragraph 1, above, Medtronic may perform destructive testing and analysis on all of the above described Devices that have been returned to Medtronic after being explanted from a patient or are the subject of research in the laboratory without having been implanted; provided, that: (i) Medtronic maintains a record, in writing or electronically, of such testing and analysis and, where possible, a Save-to-Disk file for any device that was explanted and returned; and (ii) Medtronic agrees, as part of said testing and analysis, to make the results available to plaintiff's liaison counsel subject to the terms of the protective order entered in this case. Medtronic shall not conduct any destructive testing or analysis of the above described Devices until and unless the patient whose device it was or his/her counsel have been notified of the plans for the destructive testing or analysis and shall provide to said patient and/or his/her counsel an opportunity to observe, in person, the destructive testing or analysis. Prior to any destructive testing or analysis Medtronic must provide to the patient whose device it was or his/her counsel, a proposed protocol for conducting the destructive testing or analysis and provide reasonable notice of the time and place for the destructive testing to be conducted and provide the patient whose device it was or his/her counsel with copies of all materials created, electronically or otherwise, to conduct and memorialize the results of the destructive testing and analysis performed by Medtronic.

C. Testing and Analysis by Plaintiffs or Agents of Plaintiffs. In the event plaintiffs and/or their attorneys or agents retain any explanted Device described herein, plaintiffs and/or their agents and attorneys must notify Medtronic of the Model and Serial number of the explanted device for tracking purposes. Plaintiffs shall notify Medtronic of said retention and shall not conduct any destructive testing or analysis of the Device, until and unless Medtronic and its counsel have been notified of the plans for the destructive testing or analysis and provided an opportunity to observe, in person, the destructive testing or analysis. Prior to any destructive testing or analysis, plaintiffs must (i) provide Medtronic with a proposed protocol for conducting the destructive testing or analysis, (ii) agree to allow a representative of Medtronic to be present at the destructive testing or analysis and provide reasonable notice of the time and place for the destructive testing to be conducted, and (iii) provide Medtronic with copies of all materials created, electronically or otherwise, to conduct or memorialize the results of the destructive testing and analysis performed by plaintiffs or their agents. Prior to any such testing or analysis, Plaintiffs shall provide Medtronic with an opportunity to 1) evaluate whether the battery is functioning; and 2) interrogate the device with a Medtronic programmer, record the battery voltage, and download that information to a Save-to-Disk file, which will be preserved by Medtronic.

D. Other Devices

Medtronic may continue its customary device testing and analysis for any device not described herein.

E. Data to be Preserved

The Parties may perform destructive analysis on the above described Devices only as authorized by this Order or by further Order of this Court. Otherwise, the parties shall not destroy, dispose of, alter or destructively test or analyze any of the above described Devices.

Date: January 23, 2006

s/ Arthur J. Boylan
ARTHUR J. BOYLAN
UNITED STATES MAGISTRATE JUDGE

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